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DIGITAL NETWORKS NORTH AMERICA, INC. and
LEGACY SUPPORT SERVICES, LTD.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

JENS ERIK SORENSEN, as Trustee
of SORENSEN RESEARCH AND
DEVELOPMENT TRUST,

Plaintiff,
v.

DIGITAL NETWORKS NORTH
AMERICA, INC., a Delaware
corporation; LEGACY SUPPORT
SERVICES, LTD. d/b/a S2G; and
DOES 1-100,

Defendants.

No. 07 CV 5568 JSW

**JOINT STATUS REPORT
REGARDING THE STATUS OF
REEXAMINATION PROCEEDINGS**

1 **JOINT STATUS REPORT**

2 Pursuant to the Court's January 16, 2008 Order Granting Defendant's Motion to
3 Stay Litigation Pending Reexamination of Patent-In-Suit (Doc. 39), plaintiff, Jens Erik
4 Sorensen ("Sorensen"), and defendants Digital Networks North America, Inc. ("DNNA")
5 and Legacy Support Services, Ltd. ("Legacy") respectfully submit the following Joint
6 Status Report.

7 On July 30, 2007, Black & Decker, a non-party to this litigation, filed a request for
8 reexamination of the '184 patent with the United States Patent and Trademark Office
9 ("USPTO"). The USPTO granted the request on October 11, 2007. The reexamination was
10 assigned Serial No. 90/008,775.

11 On December 21, 2007, another request for reexamination of the '184 patent was
12 filed by co-defendants to Black & Decker, non-parties to this litigation. The USPTO
13 granted the request on February 21, 2008. The second reexamination was assigned Serial
14 No. 90/008,976.

15
16 **New Developments Since the Last Joint Status Report**

17 On August 30, 2008, the USPTO issued a decision merging the two reexamination
18 proceedings.

19 The USPTO has not yet issued a first Office Action (the first substantive action in a
20 reexamination proceeding) in either of the reexaminations.

21
22 **Plaintiff Considers the Following Information Relevant To This Joint Status Report.**

23 **Defendants Do Not Believe That the Following Information Is Pertinent.**

24 On June 25, 2008, the Patently-O intellectual property blog sponsored by
25 defendants' counsel, McDonnell Boehnen Hulbert & Berghoff LLP, reported the results of
26 a statistical analysis of USPTO reexamination figures for 2000+ reexamination certificates
27
28

1 published since 2000, showing an average pendency of 33.5 months rather than the PTO
2 reported average of 24.0 months..

3 On June 26, 2008, Professor Harold Wegner, a partner with Foley & Lardner
4 (lawfirm representing the filers of the second reexamination request) cited the Patently-O
5 research and reported that “many if not most *ex parte* reexaminations lose their commercial
6 criticality after three years” and that “stripping away ‘easy’ *ex parte* reexaminations”
7 reexaminations “would have a much higher average pendency than the already
8 unsatisfactory 33.3 month average.”

9
10 Dated: September 12, 2008.

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15 By /s/
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